UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/714,624	11/18/2003	David Stinson	049377.0005/ejg	3237

33797 7590 08/14/2008

MILLER THOMPSON, LLP
Scotia Plaza
40 King Street West, Suite 5800
TORONTO, ON M5H 3S1
CANADA

EXAMINER	
PRICE, CRAIG JAMES	
ART UNIT	PAPER NUMBER
3753	

MAIL DATE	DELIVERY MODE
08/14/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/714,624	STINSON, DAVID	
	Examiner	Art Unit	
	Craig Price	3753	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *09 July 2008*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,3-9,18-20 and 28-35* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,3-9,18-20,28-35* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 7/9/2008 has been entered.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 28 – 35 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The limitation in claim 28, “wherein the power means constantly power said sensor means and said microprocessor means”, is not supported in the specification. Appropriate correction is required.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 8 and 9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 8 is unclear as to how the display is associated with the vacuum regulator. Furthermore, it is unclear if the intended use "for digitally displaying a level of vacuum administered to a patient" is positively directed to the patient. If this claim is directed to the patient, then this claim would/will be withdrawn for consideration as being drawn to the non-elected invention Group II, based on the reply filed 13 April 2006.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Rabizadeh (5,606,123).

Regarding claim 1, Rabizadeh discloses a digital pressure display comprising, sensor means for sensing the pressure (124), microprocessor means to intermittently enable the sensor means to sense the pressure at predetermined sampling intervals

and generate a signal (146), and power means (136) to power to the sensor means and the microprocessor means for generating a digital pressure reading wherein the sensor means sensing the pressure at predetermined sampling intervals reduce the power requirements, as shown in Figures 6 and 11.

Regarding claim 3, Rabizadeh discloses that the power means is a battery (Col. 6, Lns. 2-3).

Regarding claim 4, Rabizadeh discloses that the battery is rechargeable (Col.5, Ln. 67 – Col.6, Ln.1)

Regarding claim 7, Rabizadeh discloses that the circuitry has a solar power cell to recharge the battery (Col.6, Lns. 2-3).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rabizadeh (5,606,123) in view of Salmond (5,032,287).

Rabizadeh has disclosed all of the features of the claimed invention except that the digital pressure display further includes a light sensor for sensing a dark condition

so as to terminate the generation of the digital pressure reading during the dark condition.

Salmond discloses a fluid system, which utilizes an ambient sensor, which further includes a light sensor for sensing a dark condition (Col. 3, Lns. 28-34) so as to terminate the generation of the digital pressure reading during the dark condition (the term “so as to”, is considered as an intended state of use).

In view of the Salmond patent, it would have been obvious to one of ordinary skill in the art at the time of invention to utilize Salmond’s light sensor to have a light sensor for sensing a dark condition in order to optimize power consumption.

7. Claims 8, 9 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saito et al. (6,171,104) in view of Rabizadeh (5,606,123).

Saito et al. discloses a manual valve 36 and pressure sensor 35, and the controller 40 serves to provide the sampling circuit operable intermittently to sample the pressure sensor.

Firstly, Saito et al. is silent in providing a visible digital pressure display.

Rabizadeh discloses a pressure monitoring device which teaches the use of a visual digital display 132.

It would have been obvious to one of ordinary skill in the art at the time of invention to employ the digital display of Rabizadeh into the system of Saito et al. in order to manually indicate to an operator the pressure of the system.

Secondly, Saito is silent in that the digital display is replaceable with a needle dial display.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize a needle dial in place of a digital dial display in order to not require the use of alternative powering means.

8. Claims 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saito et al. (6,171,104) and Rabizadeh (5,606,123) and further in view of Gauthier (6,007,330).

Saito et al. and Rabizadeh are silent to providing the alarm in the event of a no-pressure vacuum level.

Gauthier discloses a fluid control system for a semiconductor manufacturing process which teaches the use of vacuum pressure alarm (Col.6, Lns. 21 – 34).

It would have been obvious to one of ordinary skill in the art at the time of invention to employ the alarm of Gauthier into the system of Saito et al. and Rabizadeh in order to instruct the operator to regenerate the trap (Col.6, Lns. 28 – 32).

Response to Arguments

9. Applicant's arguments filed 7/9/2008 have been fully considered but they are not persuasive. The microprocessor of Rabizadeh scans the software program at a certain rate (for example, 1 millisecond) to review all of the instructions which are supposed to occur. When the scan of the program is performed and the time comes to perform an operation in regards to the sensor, the microprocessor at that time (a certain millisecond in the timeline of performing operations) enables the sensor to function as required by the program, therefor the microprocessor has intermittently enabled the senor to sense

a pressure. This method of scanning the program reduces the power requirements. Regarding the argument that Rabizadeh fails to provide any specific signaling control to the sensor is not persuasive. As disclosed in column 6, lines 11-16, "the pressure sensor 124 communicates with a microprocessor based interface circuit 146 which in turn supplies pressure data to a driver 148 for the display 128…". The argument that Rabizadeh does not state that the sensing unit is intermittently enabled, is not persuasive. As disclosed in column 6, lines 34 – 48, "the circuitry is powered by power supply 172 which is of … the inertial type which generates power from the movement of the wheel. …Sensor 124' electrically communicates with the circuitry 170…". Therefore the movement of the wheel acts to provide power to the pressure sensor 124 when the wheel moves, when the wheel stops no power would be supplied.

Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Craig Price whose telephone number is (571) 272-2712. The examiner can normally be reached on 7AM - 5:30PM Mon-Thurs, Increased flex time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Huson can be reached on (571) 272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CP 6 August 2008 /John Rivell/
Primary Examiner, Art Unit 3753

/C. P./
Examiner, Art Unit 3753